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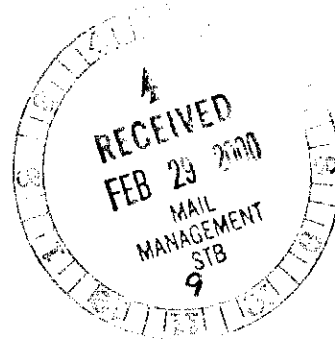
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February 29, 2000

VIA HAND DELIVERY

Surface Transportation Board
Office of the Secretary
Case Control Unit
Attn: STB Ex Parte No. 582
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of the Secretary
FEB 29 2000
Part of
Public Record



RE: *Public Views on Major Rail Consolidations*
STB Ex Parte No. 582

Dear Secretary Williams:

Enclosed herewith are an original and 11 copies of the Written Statement of Ameren Services Company for submission in the above-captioned proceeding. A 3.5-inch diskette containing a copy of this letter and Mr. Reck's statement in WordPerfect format is also enclosed.

Mr. Robert Neff will be presenting Ameren Services Company's position to the Board in this proceeding as scheduled on March 9.

Please acknowledge receipt and filing of the enclosed statement by file-stamping the enclosed eleventh copy of the statement and returning that copy to the person making that filing for return to me.

Sincerely,

A handwritten signature in dark ink, appearing to read "JRM", with a long horizontal flourish extending to the right.

John R. Molm
Attorney for Ameren Services Company

Enclosures

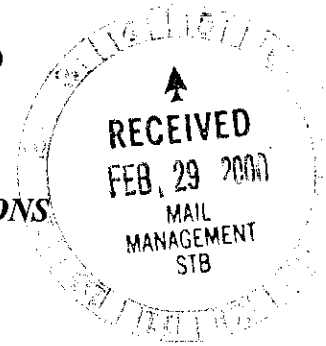
cc: Robert Neff
Steven Sullivan
Brent Motchan

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 582

PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS

**WRITTEN STATEMENT OF
AMEREN SERVICES COMPANY**



**ENTERED
of the Secret.
FEB 29 2000**

Background of Ameren Corporation

Chairwoman Morgan, Vice Chairman Burkes, Commissioner Clyburn, I am Robert Neff, the Transportation Director for Ameren Services Company. Ameren Corporation ("Ameren") is a Public Utility Holding Company which includes the utilities formerly known as Central Illinois Public Service Company (d/b/a AmerenCIPS) and Union Electric Company (d/b/a AmerenUE). Ameren purchases approximately 30 million tons of coal annually. Approximately 29 million tons of this coal moves by rail, with the remainder moving by barge and truck. Rail transportation costs are a large part of Ameren's operating costs, totaling approximately \$300 million per year. Ameren maintains a fleet of 5,000 railcars for its use, and at any given time, there are approximately 35 unit trains in service to Ameren facilities.

Major rail carriers serving Ameren coal-fired plants include Burlington Northern Santa Fe ("BNSF"), Canadian National/ Illinois Central ("CNIC" or "CN"), Norfolk Southern ("NS") and Union Pacific ("UP"). Ameren also controls two shortline railroads, the Joppa and Eastern Railroad, and the Missouri Central Railroad Company. I am also the President of Missouri Central Railroad Company. However, my comments on major rail consolidations will reflect Ameren's views as a rail shipper, not as an owner of shortline railroads.

Issues to be Addressed in Ameren's Written Comments

In its January 24th decision, the Surface Transportation Board ("STB" or "Board") requested that rail shippers and other interested parties comment on the following issues:

1. The timing of any proposed large railroad consolidation given service difficulties and disruptions associated with the last round of railroad mergers.
2. Possible strategic responses engendered by another large railroad consolidation, which might lead to additional consolidation, possibly other changes in the structure of the rail industry, or the way in which the industry is regulated.
3. Views on fundamental questions of the effect of railroad consolidations on the financial condition of the railroad industry and the industry's ability to provide responsive service at reasonable prices.

Ameren's comments will focus on issues 1 and 2. Ameren wishes to thank the Board for holding the multi-day hearing and for the opportunity to express our views on the major railroad consolidations and the present and future structure of the North American railroad industry. We understand that this hearing is separate and apart from the "BNSF/CN" proposed proceeding and, in fact, we have not formed an opinion on the BNSF/CN proposed transaction at this date. As the Board has noted, BNSF and CN have not filed their application yet and we will hold our decision until we have reviewed that filing. However, Ameren does have serious concerns about the current and future state of the railroad industry and we believe those concerns must be addressed in the face of any future consolidation.

Timing of Further Railroad Consolidations

As shown in the following table, the number of United States Class I railroads has steadily declined over the past 30 years:

<u>Year</u>	<u>Number of Class I Railroads</u>
1970-	73 Class I railroads
1980-	41 Class I railroads (14 eliminated in 1978 by redefinition of Class I)
1990-	13 Class I railroads
2000-	6 Class I railroads
2010-	? Class I railroads

As the number of Class I Railroads diminishes, shippers in general, and Ameren in particular, are apprehensive about two aspects of large national rail systems: service disruptions and increased market power. In the last five years alone, rail shippers have been faced with major rail consolidations which fell far short of the railroad's predicted benefits to the public. The UP/SP merger and the Conrail transaction have failed to even come close to the promised benefits that shippers were supposed to receive in exchange for a reduction in competition. Instead of benefits, the consolidation in the rail industry has led to major service disruptions and an increase in market power for the railroads.

Because of the extensive mergers that have already taken place, Class I railroad consolidations are now large and complex. Any service disruptions resulting from the integration of the merged roads affect large portions of the national rail system. Recent mergers certainly have affected Ameren. For example, the UP/SP service meltdown proved very costly to Ameren in terms of service to its largest coal fired plant at Labadie, MO. Ameren was forced to truck coal from a nearby BN served plant, redispach Labadie's load to other plants to conserve fuel, and acquire additional trainsets as cycle times to western mines increased. A one day increase in cycle times to western mines requires Ameren to place three additional trainsets (345 cars) in service to maintain the same deliveries. The effects of merger-related slowdowns on both western carriers are still being felt today as many unit trains purchased or leased at great expense to mitigate the effects of poor service are being stored nationwide as cycle times have begun to return to their pre-merger levels.

The other concern of shippers, increased market power, is a matter of great importance as railroads merge into larger and larger systems which will ultimately lead to just two national systems. Ameren has plants that are captive to a single railroad and plants that have direct

competition among carriers. Ameren finds that rates are about 30% higher on a ton-mile basis to plants that are captive. As a shipper who has no practical alternative to rail for the movement of coal from Wyoming to certain Ameren plants in the Midwest, competition among carriers is the only effective method to achieve better rates and service. Mergers tend to decrease choices by allowing railroads to control more origins and destinations.

Just as troubling as the chilling effect of mergers on competition is the bargaining that occurs among competing carriers during the merger process. Mergers give competing carriers opportunities to carve up markets to mutual advantage. Despite railroad rhetoric during merger hearings about preserving competition, merger settlements often result in quite the opposite. Past history suggests that under a two carrier system, the two railroads would work together to divide up their respective markets.

For example, Ameren recently learned that, according to UP, UP and BNSF got together and decided to treat Ameren's Labadie plant differently than every other 2-to-1 shipper during the UP/SP merger, which resulted in the lessening of competition at the plant. If UP's assertion is true, then this is an indication that without protections for shippers, the railroads will collectively determine which shippers they will each serve in order to reap their respective biggest monopoly profits from each shipper.

Another example indicating the potential harm under a two carrier system is the carving up of Conrail by NS and CSX. These two carriers were permitted to determine which shippers would be served by each carrier, which shippers would get single line service and which ones would get joint line service after the merger. Once again numerous public benefits were predicted but none have been realized by the shippers. After mergers are approved, carriers quickly develop Class I amnesia regarding competitive promises made during the merger approval process, leaving shippers without their intended benefits.

Strategic Responses by Other Railroads

From a shipper viewpoint, it seems as if it is almost too late in the railroad merger movement to discuss the downstream effects of a BNSF/CN merger. Such a discussion may have been better undertaken in 1980 or 1990, when there was still a chance to retain some type of regional competition.

The question now is how do the few remaining railroads combine to create two national systems. There is little doubt that the BNSF/CN merger will bring about further mergers among the other Class I roads. The other Class I railroad have themselves proclaimed that more mergers will occur in response to the BN/CN merger. As a result, we are left with looking at what strategic responses will be made. The rational choices for a combination of the United States and Canadian roads to form two transcontinental railroads would be few:

BNSF+CN+KCS+NS vs UP+CP+CSX

Or

BNSF+CN+KCS+CSX vs UP+CP+NS

Irrational choices for national systems in the east and west are fewer:

BNSF+CN+KCS+UP vs CSX+NS+CP

The first relevant question is: should the STB devise a plan for this last railroad consolidation movement, or should free market principles apply? Prior attempts at controlling the direction of railroad mergers were not successful. Beginning with the Transportation Act of 1920 (the Ripley Plan) and ending with the Transportation Act of 1933 (the Prince Plan) this so-called Planned Merger Period produced only two mergers of any significance from 1920 until 1940. Railroads, regulators and investors all did not agree with the Interstate Commerce Commission's ("ICC") apportionment of their investment. A lack of ICC authority to compel consolidations prevented any of the plans from working. Such an attempt at controlled mergers may be easier now with the fewer number of railroads involved, but the STB cannot compel the railroads to merge in a logical manner.

The second relevant question is: should the STB establish the timing of the BNSF/CN merger based on the state of the rest of the industry, or should the merger participants be allowed to consolidate based on the participants' assessment of their readiness? Here the STB can use its discretion to deny a merger application until the STB, in its judgment, assesses that the industry is ready for additional mergers. There is some precedent for this argument, considering that the Great Northern/Northern Pacific/Chicago Burlington & Quincy merger was attempted three times over 74 years before being approved as the Burlington Northern in 1967.

Greater Protection is Needed for Shippers

As railroads become larger and more powerful through mergers, shippers who must develop competitive alternatives increasingly find doing so more difficult. The only shippers who received competitive access in prior mergers were the 2-to-1 shippers, who had direct competition between the merging carriers and subsequently were reduced to one carrier after the merger. Under the Board's past precedent, however, shippers going from 3-to-2 or 4-to-3 competitive options, as a result of a rail merger or consolidation, do not receive any competitive protections. As a result, the Board's precedent appears to indicate that shippers would not be harmed if the rail industry consolidated to just two railroads.

In the face of continuing consolidations, shippers will lose even the few protections already in place without adequate provisions imposed by the STB. For example, the recently upheld bottleneck contract exception would lose any practical benefit to shippers as the number of carriers shrink. *See Union Pacific Railroad Co. v. Surface Transportation Board, et al.*, No. 98-1058, U.S. Court of Appeals for the District of Columbia, decided Feb. 15, 2000. Under the contract exception, a shipper can benefit from competition, even where served by a bottleneck carrier, if the shipper has contract rates for the non-bottleneck portion. As the number of railroads shrink, we believe the incentive for railroads to give a contract rate for the non-bottleneck portion will diminish.

Moreover, this protection will be lost if the Board does not provide affirmative protection to shippers who currently have this benefit but would lose it in the face of a subsequent merger. A shipper that currently has two non-bottleneck carriers at the origin and contract rates for the non-bottleneck portions, has the benefit under the contract exception, of getting a rate for the bottleneck portion of the route. This means the shipper has two equally competitive options. However, the contract exception does not require a carrier that has a single-line route to interchange with another carrier. Therefore, if the bottleneck carrier is permitted to merge with one of the non-bottleneck carriers, the shipper has experienced a diminution in competition. The merger-created single-line route will not be required to publish a bottleneck portion rate and thus the shipper will go from two competitive options to effectively one without a competitive protection. Ameren's Newton plant, currently served by the CNIC but with origin competition between UP and BNSF, is one such example of how this loss of competition could occur under the BN/CN merger.

Industry Structure Must Change

As I have adverted to above, the STB should give itself adequate time to assess the status of the rail industry today. I invite the Board to continue these hearings or create a new proceeding to investigate how other industries have been deregulated and have become more competitive. The airline, motor carrier, telecommunications, electric utility and gas industries have been or are in the process of being deregulated. The Board should review the policies employed in these other industries regarding divestment and shared access which has preserved and even enhanced competition. While the STB may be the successor to the oldest regulatory agency, the STB is no longer the lone pioneer in the era of deregulation. The Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA", formally under CAB) and Federal Energy Regulatory Commission ("FERC") have all had substantial roles in deregulating the various industries subject to their jurisdiction. In fact, some of the very economists testifying in this proceeding have testified in other industry restructuring. The Board should ask all of them about their experience in the other industries.

I firmly believe that the STB and the railroads should take the opportunity to take advantage of the knowledge that has been gained in other industries, rather than view the rail industry in a vacuum. This can only result in achieving the best solution for the most economically-efficient way to preserve and promote competition in the rail industry. The answer certainly is not just in allowing the creation of only two national railroads.

Conclusion

The most recent railroad mergers have shown that the decreasing number of railroads have worked out settlement agreements, joint deals, and joint purchases in each other's transactions, all in the name of helping shippers. However, shippers have yet to realize little, if any, of the benefits promised from those mergers. Therefore, the structure of the rail industry must change and/or additional competitive protections must be put in place before any further consolidation in the rail industry should be permitted.